

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

REGINALD GILBERT-BEY	§	
v.	§	CIVIL ACTION NO. 6:16cv976
		Crim. No. 6:92cr24(2)
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Movant Reginald Gilbert-Bey, proceeding *pro se*, filed this motion to vacate or correct his sentence under 28 U.S.C. §2255 complaining of the validity of his conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the Magistrate Judge issued a Report recommending that Gilbert-Bey's motion to vacate sentence be dismissed with prejudice until such time as Gilbert-Rey secured permission from the Fifth Circuit Court of Appeals to file a successive motion to vacate or correct sentence, as required by 28 U.S.C. §2244(3)(A). A copy of this Report was sent to Gilbert-

Bey's last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has examined the pleadings in this cause and the Report of the Magistrate Judge and has concluded that this Report is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th

Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

**ORDERED** that the Report of the Magistrate Judge (docket no. 8) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled motion to vacate or correct sentence is **DISMISSED WITH PREJUDICE** until such time as Gilbert-Bey secures permission from the Fifth Circuit Court of Appeals to file a successive motion to vacate or correct sentence. It is further

**ORDERED** that the Movant Reginald Gilbert-Bey is **DENIED** a certificate of appealability *sua sponte*. The denial of the certificate of appealability pertains only to an appeal of the present case and has no effect upon Gilbert-Bey's right to seek permission to file a successive motion to vacate or correct sentence or to pursue his claims fully in the event such permission is obtained. Finally, it is

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED**.

**So Ordered and Signed**

May 23, 2018



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Ron Clark, United States District Judge